

**INDIANA HOUSING & COMMUNITY DEVELOPMENT AUTHORITY
SECTION 8 HOUSING CHOICE VOUCHER PROGRAM
COLLECTION AGENT
REQUEST FOR PROPOSALS
DATE**

Background: The Indiana Housing and Community Development Authority (the “Authority” or “IHCD”) acting on behalf of the State of Indiana’s Section 8 Housing Choice Voucher Program (“Section 8” or “HCV Program”), requires collection services for the collection of overpayments under the Section 8 program. IHCD intends to solicit responses from and contract with a firm specializing in debt collections to recoup funds owed to the Authority by Section 8 participants.

RFP: This is a Request for Proposals (RFP) for the role of Collection Agent (the “Agent”). Only those businesses which respond with an appropriate proposal delivered to the Authority by **June 2nd, 2008** and which can be prepared to negotiate contract terms immediately thereafter will be considered (“Vendor”). The Authority reserves the right to terminate the collection agreement after the one (1) year term has expired.

Schedule of Events: IHCD has established the following schedule for selection of the Collection Agent:

<u>Event</u>	<u>Date</u>
RFP issuance date	June 2, 2008
Written questions from applicants	June 11, 2008
Responses to applicant questions	June 16, 2008
Proposals due	June 26, 2008
IHCD Board approval	July 24, 2008

Submission of Written Questions: It is the policy of IHCD to accept inquiries from all potential applicants. All questions and inquiries shall be in writing; no verbal requests will be honored. Potential applicants may submit their questions or inquiries via e-mail to:

Mark Young
Email: myoung@ihcd.in.gov
Subject: Collection Agent RFP

All written inquiries are due by **June 11th, 2008** at 5:00 pm. IHCD expects to respond to inquiries by **June 26th, 2008**. However, we do reserve the right to not respond at all. IHCD reserves the right to decline to respond to any inquiry that will cause an undue burden or expense for IHCD.

Oral Presentations: Respondents may be required to make oral presentations in order to provide an opportunity for respondents to present their proposals and to answer questions posed by IHCD Trustees and/or staff or other professionals concerning any items covered by their respective proposals, or such other matters as may be deemed relevant to the evaluation of the respondents and their responses. If oral presentations are required, IHCD will schedule the time and location for each oral presentation. Failure to appear for an oral presentation at the time and place scheduled may result in the rejection of the proposal. Further, IHCD reserves the right to visit any respondent at their primary place of business.

CAA: The successful Vendor will enter into a Collection Agency Agreement (CAA) with the Authority, a draft of which will be posted on our website and made a part of this RFP.

Conflict of Interest: Each applicant must disclose any existing or potential conflict of interest relative to the performance of the contractual services resulting from this RFP, including any relationship that might be perceived or represented as a conflict. By submitting a proposal in response to this RFP, applicants affirm that they have not given, nor intend to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant or any employee or representative of same, in connection with this procurement. Any attempt to intentionally or unintentionally conceal or obfuscate a conflict of interest will automatically result in the disqualification of an applicant's proposal. An award will not be made where a conflict of interest exists. IHCDCA will determine whether a conflict of interest exists and whether it may reflect negatively on IHCDCA's selection of an applicant. Further, IHCDCA reserves the right to disqualify any applicant on the grounds of actual or apparent conflict of interest.

Requirements to Respond: The Vendor must be a legally established entity, licensed to do business in the State of Indiana, experienced in collecting debts and judgments for State agencies, be able to communicate with debtors that use English as their second language, and be fully bonded and insured. In addition, the Vendor must meet the program requirements of the Authority and the Section 8 Housing Choice Voucher Program Administrative Plan.

RFP Scope of Services: IHCDCA requires assistance in collecting amounts owed by participants in the State's Section 8 program, including landlords and tenants. The Agent will be expected to enter a contract that requires it to perform all of the normal duties associated with the collection of outstanding debts and judgments owed to the Authority, which duties include, but are not limited to:

- 1) Bill for, collect, account for, record, and electronically remit to IHCDCA amounts owed to IHCDCA by participants in the Section 8 Program, less any collection fees associated with collection services provided for each account
- 2) Comply with all repayment and fraud recovery policies published by IHCDCA in the Section 8 Administrative Plan, as amended from time to time, the relevant portions of which are attached to this RFP
- 3) Receive, reconcile, and process monthly a listing of all account data relating to funds owed to IHCDCA from Section 8 participants, from which IHCDCA may determine the costs of each collection for purposes of reporting to the United States Department of Housing and Urban Development ("HUD")
- 4) Manage and enforce existing Section 8 Program repayment agreements on behalf of IHCDCA, in cooperation with IHCDCA Section 8 staff and in compliance with HUD regulations
- 5) Enter into, manage and enforce new repayment agreements on behalf of IHCDCA, in cooperation with IHCDCA Section 8 staff and in compliance with HUD regulations
- 6) Report monthly in a form acceptable to IHCDCA in which the following information is provided: (a) account status; (b) balance due; (c) interest received; (d) payments received; (e) fees deducted; (f) aging receivable balance; (g) date of payments; (h) partial payments; and (i) next payment due, all of which are reported separately by account identifier
- 7) Maintain confidentiality and ensure security of all IHCDCA debtor information

RFP Evaluation Factors: The Authority and its financial and legal advisers will review all RFP responses provided by the Vendor. The responses must demonstrate the Vendor's ability and capacity to perform the functions of Collection Agent. Principal considerations for evaluating the responses will be:

- 1) Company's reputation in the industry, financial stability, and the quality of its collections practices and bad debt write-off policies
- 2) The company's fee structure and supplemental services cost schedules
- 3) Ability of company to comply with IHCD's ethical and other contractual requirements
- 4) Experience in and knowledge about requirements of the Section 8 Housing Choice Voucher Program
- 5) Prior collection activities as reported by references and the success or failure of those activities
- 6) The qualifications of the staff or personnel assigned to the contract
- 7) The responsiveness of the proposal to questions and needs identified by IHCD
- 8) The location of the company's headquarters and any offices from which collection services will be provided
- 9) Any prior experience of the bidder with IHCD or other State agencies

RFP Submission Items: Please address each item applicable to your experience under each category heading. Include information on the type and number of projects for which you have provided collection services. Attach sheets as necessary, with the name of your company shown on each page. The signature section at the end of this form must be completed and signed, and must accompany your written attachments.

1. Quality, Capacity and Experience of Firm

- a. References and current portfolio - detail collections experience including any Federal or State programs and or agencies
- b. Demonstrated capacity to complete collection activities state-wide, including the Vendor's income statements and balance sheets for each of the two most recent fiscal years
- c. Describe the types of business ventures in which Vendor is involved, and if Vendor has more than one product division, describe in detail the division responsible for the type of services requested by this RFP
- d. Experience of principals and staff—include current organizational structure and staffing--and a summary of training programs, customer service record, and Vendor's complaint process and experience
- e. Statement indicating that the CEO or CFO has taken personal responsibility for the thoroughness and correctness of all financial information submitted with the proposal
- f. Licenses, certifications, and credentials of company, principal, and staff

2. Summary of Ability and Desire to Supply the Required Services

- a. Describe your ability to provide the requested services that meet the requirements in this RFP and IHCD's Administrative Plan
- b. State willingness to provide the requested services subject to the terms and conditions in this RFP and the State's mandatory contract clauses
- c. If Vendor will supply any collection services using subcontractors, provide identity of all subcontractors, describe the contractual relationship between Vendor and each subcontractor, and acknowledge that Vendor is responsible for the

performance of any obligations that may result from this RFP, and is not relieve of that obligation by using subcontractors

3. Operational Systems and Procedures

- a. Systems in place to perform collections services, including appropriate systems to comply with IHCD- approved due diligence guidelines and to provide feedback to IHCD on all accounts assigned for collection
- b. Narrative describing the process of performing collections, Vendor's debt recovery model, and method of making bad debt write-off recommendations
- c. Systems in place to deliver monthly electronic reports to IHCD that allow evaluation using the approved debt recovery model
- d. Systems in place to track and enforce repayment agreements and to ensure that business is conducted in a manner that supports IHCD's goal of fair and equitable treatment of debtors during the collection of debts
- e. Systems in place to ensure compliance with Section 8 Program guidelines, including the need for a segregated bank account for funds collected on behalf of IHCD
- g. Systems in place to ensure confidentiality and security of information maintained or transmitted, including Vendor's disaster recovery plan
- f. Overall ability to address the Scope of Services detailed in this RFP

4. Competitive Fees

Please include your debt recovery model costs and fees in this portion of your proposal. The collection fee is a percentage of the total debt, penalty and interest amounts recovered. Vendor will be responsible for all expenses it incurs for performing the services described in this RFP. The pricing associated with this RFP must remain open and in effect for a period of not less than 180 days from the proposal due date.

5. Minority/Women Business-Owned Enterprises

Minority/Women Business-Owned Enterprises (MBE/WBE) are encouraged to submit a proposal. If you are an MBE/WBE, please submit certification documentation.

6. Licensed State of Indiana Business

Please submit a copy of your business's State of Indiana Certificate of Existence from the Secretary of State and give a brief history of the demographics and location of your company.

The proposal requirements stated in this RFP are mandatory and are not simply desirable. Failure by a respondent to address a specific requirement may be the basis for elimination from consideration. The Authority reserves the right to award the contract to the firm that best meets the qualifications required - which may or may not be the firm with the lowest bid. The Authority also reserves the right to reject any and all responses prior to execution of the contract with no penalty or cost to IHCD and to select a short list of institutions with which to negotiate fees and duties.

Those organizations submitting materials should not include promotional materials. All responses will become property of the Authority and will not be returned. The bid must be for no less than a one (1) year period only.

Terms and Conditions: This RFP is issued and subject to the following terms and conditions:

- 1) This RFP is to request the submission of responses but is not itself an offer and shall under no circumstances be construed as an offer.
- 2) The Authority expressly reserves the right to modify or withdraw this RFP at any time, whether before or after any responses have been submitted or received.
- 3) The Authority may reject any or all proposals submitted in response to this RFP at any time prior to entering into a written agreement.

- 4) In the event the party selected does not enter into the required agreement to carry out the purposes described in this RFP, the Authority may, in addition to any other rights and remedies available at law or in equity, commence negotiations with any other person or entity.
- 5) In no event shall any obligation of any kind be enforceable against the Authority unless and until a written agreement is entered into.
- 6) Each respondent agrees to bear all costs and expenses of its response and there shall be no reimbursement for any costs and expenses relating to the preparation of responses submitted or for any costs or expenses incurred during negotiations.
- 7) By submitting a response to this RFP, each respondent waives all rights to protest or seek any remedies whatsoever regarding any aspect of this request, the selection of a respondent or respondents with whom to negotiate, the rejection of any or all offers to negotiate, or a decision to terminate negotiations.
- 8) IHCDCA reserves the right to waive informalities and minor irregularities in responses received.
- 9) IHCDCA shall not be obligated to accept the lowest priced response, but will make an award in the best interests of IHCDCA after all factors have been evaluated.
- 10) Any irregularities or lack of clarity in the RFP should be brought to the Authority's attention as soon as possible so that corrective addenda may be furnished to prospective applicants.
- 11) The IHCDCA has adopted many of the required State of Indiana contractual provisions. The IHCDCA hereby puts the applicant on notice that a successful award at the end of the process will be contingent upon the agreement to comply with these standard contractual provisions (such as drug-free workplace certifications, minority and women business enterprise compliance, nondiscrimination certifications, licensing standards, certifications relating to HIPAA, certifications regarding telephone solicitations, and certifications relating to State of Indiana ethics policies).
- 12) Proposals that appear unrealistic in terms of technical commitments, lack of technical competence, or are indicative of failure to comprehend the complexity and risk of a proposed contract, may be rejected.
- 13) Proposals may be withdrawn by email notice received prior to **July 18th, 2008**
- 14) Each respondent must include in its Proposal a complete disclosure of any alleged significant prior or ongoing contract failures, any civil or criminal litigation or investigation pending which involves the respondent or in which the respondent has been judged guilty or liable. Failure to comply with the terms of this provision will disqualify any Proposal.
- 15) There is no assurance that the successful respondents will actually serve or the number of times or frequency of such service.

Response: If your company is interested in acting as Collection Agent for the Section 8 Housing Choice Voucher Program, your proposal must be submitted by mail or via emailed to the IHCDCA offices **no later than 5:00 pm, EDT, June 26, 2008.** Please send proposals to the attention of:

Mark Young, Chief Operating Officer
Indiana Housing & Community Development Authority
30 South Meridian, Suite 1000
Indianapolis, Indiana 46204
myoung@ihcda.in.gov

**INDIANA HOUSING & COMMUNITY DEVELOPMENT AUTHORITY
SECTION 8 HOUSING CHOICE VOUCHER PROGRAM
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**EXHIBIT A
CERTIFICATE OF INDEPENDENT PRICE DETERMINATION**

I swear or affirm under the penalties of perjury that the information submitted in this Proposal is true and correct and that the undersigned bidder has not conspired or colluded with any other organization submitting a bid proposal to the IHCD in response to the RFP for Collection Agent, nor with any person employed or authorized by IHCD to participate in the evaluation of proposals in response to this RFP.

Furthermore, the undersigned certifies that (check the box that applies):

☐ I am the person in the respondent's firm responsible within that organization for the decision as to the prices being offered herein and I have not participated, and will not participate, in any action contrary to the restrictions cited above; **or**

☐ I am not the person in the respondent's firm responsible within that organization for the decision as to the prices being offered herein, but I have been authorized, in writing, to act as agent for the person responsible for such decision in certifying that such persons have not participated, and will not participate, in any action contrary to the restrictions cited above and as their agent I do hereby so certify; and I have not participated, and will not participate, in any action contrary to the restrictions cited above.

Date: _____

Name of Company: _____

By (Printed Name): _____

Signature: _____

Title: _____

INDIANA HOUSING AND COMMUNITY DEVELOPMENT PROFESSIONAL SERVICES CONTRACT

This Contract ("this Contract"), entered into by and between the **Indiana Housing and Community Development Authority** (the "IHCDA") and _____. (the "Contractor"), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

1. Duties of Contractor.

The duties of the contractor are set forth in Exhibit A ("Collection Services"), attached hereto and incorporated fully herein, and are summarized below:

Debt collection services for IHCDA's Section 8 Housing Choice Voucher Program to recover amounts owed to IHCDA by participants in that program.

2. Consideration.

Contractor shall be paid a fee for debt collection services based on amounts recovered from accounts receivable in the Section 8 program that are assigned to Contractor at the rate of _____ per account, as more specifically described in Exhibit B ("Fee Schedule"), attached to and incorporated in this Agreement by reference. Contractor will not be reimbursed for its expenses incurred for these services, unless specifically approved by IHCDA in writing prior to incurring the expense.

3. Term.

This Contract shall take effect on _____, **2008** ("Effective Date") and remain in effect until _____, **2009**, unless terminated earlier as provided herein.

4. Access to Records.

The Contractor and its subcontractors, if any, shall maintain all books, documents, papers, accounting records, and other evidence pertaining to all collections services performed under this Contract. It shall make such materials available at its respective offices at all reasonable times during the Contract term, and for five (5) years from the date of final payment under this Contract, for inspection by the IHCDA or its authorized designees. Upon request, copies shall be furnished at no cost to IHCDA.

5. Assignment; Successors.

The Contractor binds its successors and assignees to all the terms and conditions of this Contract. The Contractor shall not assign or subcontract the whole or any part of this Contract without the IHCDA's prior written consent. The Contractor may assign its right to receive payments to such third parties as the Contractor may desire without the prior written consent of the IHCDA, provided that the Contractor gives written notice (including evidence of such assignment) to the IHCDA thirty (30) days in advance of any payment so assigned. The assignment shall cover all unpaid amounts under this Contract and shall not be made to more than one party.

6. Audits.

The Contractor acknowledges that it may be required to submit to an audit of funds paid through this Contract. Any such audit will be conducted in accordance with Ind. Code § 5-11-1, *et seq.* and audit guidelines specified by the State. The Contractor shall not be required to take any action in conjunction with such audits that causes it to incur any actual cost (in addition to its regular debt collection services costs) unless the IHCD A agrees to reimburse the Contractor for such cost.

If contract amount exceeds \$500,000, insert the following:

Following the expiration of this Contract, the Contractor may be required to arrange for a financial and compliance audit of funds provided by IHCD A pursuant to this Contract. Such audit is to be conducted by an independent public or certified public accountant, and performed in accordance with Indiana State Board of Accounts publication entitled "Uniform Compliance Guidelines for Examination of Entities Receiving Financial Assistance from Governmental Sources," and applicable provisions of the Office of Management and Budget Circulars A-133 (Audits of States, Local Governments, and Non-Profit Organizations). The Contractor is responsible for ensuring that the audit and any management letters are completed and forwarded to IHCD A in accordance with the terms of this Contract.

Audits conducted pursuant to this paragraph must be submitted no later than nine (9) months following the close of the Contractor's fiscal year. Contractor agrees to provide the IHCD A an original of all financial and compliance audits. The audit shall be an audit of the actual entity, or distinct portion thereof that is the Contractor, and not of a parent, member, or subsidiary corporation of the Contractor, except to the extent such an expanded audit may be determined by the IHCD A to be in the best interests of the State. The audit shall include a statement from the Auditor that the Auditor has reviewed this Contract and that the Contractor is not out of compliance with the financial aspects of this Contract.

7. Authority to Bind Contractor.

The signatory for the Contractor represents that he/she has been duly authorized to execute this Contract on behalf of the Contractor and has obtained all necessary or applicable approvals to make this Contract fully binding upon the Contractor when his/her signature is affixed, and accepted by the IHCD A.

8. Changes in Work.

The Contractor shall not commence any additional work or change the scope of the work until authorized in writing by the IHCD A. Contractor shall make no claim for additional compensation in the absence of a prior written approval and amendment executed by all signatories hereto. This Contract may only be amended, supplemented or modified by a written document executed in the same manner as this Contract.

9. Compliance with Laws.

- A. The Contractor shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference.
- B. The Contractor and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State as set forth in I.C. § 4-2-6 *et seq.*, I.C. § 4-2-7, *et seq.*, the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If the Contractor is not familiar with these ethical requirements, the Contractor should refer any questions to the Indiana State Ethics Commission, or visit the Indiana State Ethics Commission website at <http://www.in.gov/ethics/>. If the Contractor or its agents violate any applicable ethical standards, the IHCD A may, in its sole discretion, terminate this Contract immediately upon notice to the Contractor. In addition, the Contractor may be subject to penalties under I.C. §§ 4-2-6, 4-2-7, 35-44-1-3, and under any other applicable laws.

- C. The Contractor certifies by entering into this Contract that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State.
- D. The Contractor warrants that it has no current, pending or outstanding criminal, civil, or enforcement actions initiated by the State, and agrees that it will immediately notify the IHCD A of any such actions. During the term of such actions, the Contractor agrees that the IHCD A may delay, withhold, or deny work under any supplement, amendment, change order or other contractual device issued pursuant to this Contract.
- E. If a valid dispute exists as to the Contractor's liability or guilt in any action initiated by the State or its agencies, and the IHCD A decides to delay, withhold, or deny work to the Contractor, the Contractor may request that it be allowed to continue, or receive work, without delay. IHCD A will consider any extenuating circumstances presented in Contractor's request and may, in its sole discretion, decide to allow Contractor to continue or receive work.
- F. The Contractor warrants that the Contractor, its employees, agents, and subcontractors, if any, shall obtain and maintain all required certifications, permits, licenses, registrations and approvals, and shall comply with all health, safety, and environmental statutes, rules, or regulations in the performance of work activities for the IHCD A. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination and denial of further work with the IHCD A.
- G. The Contractor affirms that, if it is an entity described in I.C. Title 23, it is properly registered and owes no outstanding reports to the Indiana Secretary of State.
- H. As required by I.C. 5-22-3-7:
 - (1) The Contractor and any principals of the Contractor certify that (A) the Contractor, except for de minimis and nonsystematic violations, has not violated the terms of (i) I.C. 24-4.7 [Telephone Solicitation Of Consumers], (ii) I.C. 24-5-12 [Telephone Solicitations] , or (iii) I.C. 24-5-14 [Regulation of Automatic Dialing Machines] in the previous three hundred sixty-five (365) days, even if I.C. 24-4.7 is preempted by federal law; and (B) the Contractor will not violate the terms of I.C. 24-4.7 for the duration of the Contract, even if I.C. 24-4.7 is preempted by federal law.
 - (2) The Contractor and any principals of the Contractor certify that an affiliate or principal of the Contractor and any agent acting on behalf of the Contractor or on behalf of an affiliate or principal of the Contractor (A) except for de minimis and nonsystematic violations, has not violated the terms of I.C. 24-4.7 in the previous three hundred sixty-five (365) days, even if I.C. 24-4.7 is preempted by federal law; and (B) will not violate the terms of I.C. 24-4.7 for the duration of the Contract, even if I.C. 24-4.7 is preempted by federal law.

10. Condition of Payment.

All services provided by the Contractor under this Contract must be performed to the IHCD A's reasonable satisfaction, as determined at the discretion of the undersigned IHCD A representative and in accordance with Exhibit A and all applicable federal, state, and local laws, rules and regulations. The IHCD A shall not be required to pay for work found to be unsatisfactory, inconsistent with this Contract or performed in violation of any federal, state or local statute, ordinance, rule or regulation. Debt collection services fees shall be retained by the Contractor out of the amounts collected by the Contractor before remitting funds to IHCD A.

11. Confidentiality of Information.

The Contractor understands and agrees that data, materials, and information disclosed to the Contractor may contain confidential and protected information. The Contractor covenants that data, material and

information gathered, based upon or disclosed to the Contractor for the purpose of this Contract, will not be disclosed to or discussed with third parties, other than as provided herein, without the prior written consent of the IHCD. The Contractor and IHCD agree that the Contractor may provide confidential information to (i) third party report providers, such as appraisers, title companies, surveyors, and environmental consultants, to the extent necessary as part of underwriting process required hereunder, (ii) legal counsel in order to prepare loan documents, to close the Development Fund loans and in conjunction with any work out, foreclosure or other action involving a default under a Development Fund loan and (iii) to any other third parties to the extent reasonably necessary in conjunction with the underwriting, closing and collection of the Development Fund loans.

The parties acknowledge that the services to be performed by Contractor for the IHCD under this contract may require or allow access to data, materials, and information containing Social Security numbers or other personal information maintained by or on behalf of the IHCD in a computer system or other records. In addition to the covenant made above in this section and pursuant to 10 IAC 5-3-1(4), the Contractor and the IHCD agree to comply with the provisions of I.C. 4-1-10 and I.C. 4-1-11. If any Social Security number(s) or personal information (as defined in I.C. 4-1-11-3) is/are disclosed by Contractor, Contractor agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this Contract.

12. Continuity of Services.

- A. The Contractor recognizes that the service(s) to be performed under this Contract are vital to the IHCD and must be continued without interruption and that, upon Contract termination, a successor may continue them. The Contractor agrees to:
 - 1. Provide data and technical assistance for, and
 - 2. Cooperate fully to effect an orderly and efficient transition to a successor.
- B. The Contractor shall, upon the IHCD's written request:
 - 1. Furnish phase-in, phase-out services for up to sixty (60) days after this Contract expires, and
 - 2. Negotiate in good faith a plan ("Plan") with a successor to determine the nature and extent of phase-in, phase-out services required.

The Plan shall specify a date for transferring responsibilities for each division of work described in the Plan, and shall be subject to the IHCD's approval. The Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the services called for by this Contract are maintained at the required level of proficiency.

- C. The Contractor shall be reimbursed by the IHCD for all reasonable costs incurred within the agreed phase-in, phase-out period for services provided according to the Plan as approved by the IHCD.

13. Debarment and Suspension.

- A. The Contractor certifies by entering into this Contract that neither it nor its principals nor any of its subcontractors are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from entering into this Contract by any federal agency or by any department, agency or political subdivision of the State. The term "principal" for purposes of this Contract means an officer, director, owner, partner, key employee or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control over the operations of the Contractor.
- B. The Contractor certifies that it has verified the state and federal suspension and debarment status for all subcontractors receiving funds under this Contract and shall be solely responsible for any recoupment, penalties or costs that might arise from use of a suspended or debarred subcontractor. The Contractor shall immediately notify the IHCD if any subcontractor becomes debarred or suspended, and shall, at

the IHCDAs request, take all steps required by the IHCDAs to terminate its contractual relationship with the subcontractor for work to be performed under this Contract.

14. Default by IHCDAs.

If the IHCDAs, sixty (60) days after receipt of written notice, fails to correct or cure any material breach of this Contract, the Contractor may cancel and terminate this Contract and institute the appropriate measures to collect monies due up to and including the date of termination.

15. Disputes.

- A. Should any disputes arise with respect to this Contract, the Contractor and IHCDAs agree to act immediately to resolve such disputes. Time is of the essence in the resolution of disputes.
- B. The Contractor agrees that, the existence of a dispute notwithstanding, it will continue without delay to carry out all its responsibilities under this Contract that are not affected by the dispute. Should the Contractor fail to continue to perform its responsibilities regarding all non-disputed work, without delay, any additional costs incurred by the IHCDAs or the Contractor as a result of such failure to proceed shall be borne by the Contractor, and the Contractor shall make no reimbursement claim to IHCDAs for such additional costs.
- C. If, within ten (10) working days following notification in writing by either party of the existence of a dispute no resolution has occurred, then the following procedure shall apply:
 - 1. The parties agree to resolve such matters through submission of their dispute to the Commissioner of the Indiana Department of Administration. The Commissioner shall reduce a decision to writing and mail or otherwise furnish a copy thereof to the Contractor and IHCDAs within ten (10) working days after presentation of such dispute for action. The presentation may include a period of negotiations, clarifications, and mediation sessions and will not terminate until the Commissioner or one of the parties concludes that the presentation period is over. The Commissioner's decision shall be final and conclusive unless either party mails or otherwise furnishes to the Commissioner, within ten (10) working days after receipt of the Commissioner's decision, a written appeal. Within ten (10) working days of receipt by the Commissioner of a written request for appeal, the decision may be reconsidered. If no reconsideration is provided within ten (10) working days, the parties may mutually agree to submit the dispute to arbitration or mediation for a determination. Otherwise, the dispute may be submitted to an Indiana court of competent jurisdiction.
 - 2. IHCDAs may withhold payments on disputed items pending resolution of the dispute. The unintentional nonpayment by IHCDAs to the Contractor of one or more invoices not in dispute in accordance with the terms of this Contract will not be cause for Contractor to terminate this Contract. The Contractor may not bring suit to collect these amounts without following the dispute procedures contained herein.

16. Drug-Free Workplace Certification.

The Contractor hereby covenants and agrees to make a good faith effort to provide and maintain a drug-free workplace. The Contractor will give written notice to the IHCDAs within ten (10) days after receiving actual notice that the Contractor or an employee of the Contractor in the State of Indiana has been convicted of a criminal drug violation occurring in the workplace. False certification or violation of this certification may result in sanctions including, but not limited to, suspension of contract payments, termination of this Contract and/or debarment of contracting opportunities with the IHCDAs for up to three (3) years.

In addition to the provisions of the above paragraph, if the total contract amount set forth in this Contract is in excess of \$25,000.00, the Contractor hereby further agrees that this Contract is expressly subject to the terms, conditions, and representations of the following certification:

This certification is required by Executive Order No. 90-5, April 12, 1990, issued by the Governor of Indiana. No award of a contract shall be made, and no contract, purchase order or agreement, the total amount of which exceeds \$25,000.00, shall be valid, unless and until this certification has been fully executed by the Contractor and made a part of the contract or agreement as part of the contract documents.

The Contractor certifies and agrees that it will provide a drug-free workplace by:

- A. Publishing and providing to all of its employees a statement notifying them that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the Contractor's workplace, and specifying the actions that will be taken against employees for violations of such prohibition;
- B. Establishing a drug-free awareness program to inform its employees of (1) the dangers of drug abuse in the workplace; (2) the Contractor's policy of maintaining a drug-free workplace; (3) any available drug counseling, rehabilitation and employee assistance programs; and (4) the penalties that may be imposed upon an employee for drug abuse violations occurring in the workplace;
- C. Notifying all employees in the statement required by subparagraph (A) above that as a condition of continued employment, the employee will (1) abide by the terms of the statement; and (2) notify the Contractor of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- D. Notifying the State in writing within ten (10) days after receiving notice from an employee under subdivision (C)(2) above, or otherwise receiving actual notice of such conviction;
- E. Within thirty (30) days after receiving notice under subdivision (C)(2) above of a conviction, imposing the following sanctions or remedial measures on any employee who is convicted of drug abuse violations occurring in the workplace: (1) taking appropriate personnel action against the employee, up to and including termination; or (2) requiring such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state or local health, law enforcement, or other appropriate agency; and
- F. Making a good faith effort to maintain a drug-free workplace through the implementation of subparagraphs (A) through (E) above.

17. Employment Option.

Intentionally omitted.

18. Force Majeure.

In the event that either party is unable to perform any of its obligations under this Contract or to enjoy any of its benefits because of natural disaster or decrees of governmental bodies not the fault of the affected party (hereinafter referred to as a "Force Majeure Event"), the party who has been so affected shall immediately give notice to the other party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Contract shall be immediately suspended. If the period of nonperformance exceeds thirty (30) days from the receipt of notice of the Force Majeure Event, the party whose ability to perform has not been so affected may, by giving written notice, terminate this Contract.

19. Funding Cancellation.

When the Executive Director of IHCDA makes a written determination that funds are not appropriated or otherwise available to support continuation of performance of this Contract, this Contract shall be canceled. A determination by the Executive Director that funds are not appropriated or otherwise available to support continuation of performance shall be final and conclusive.

20. Governing Laws.

This Contract shall be construed in accordance with and governed by the laws of the State of Indiana and suit, if any, must be brought in courts located in Marion County, Indiana.

21. Indemnification.

The Contractor agrees to indemnify, defend, and hold harmless the IHCDA, its agents, officials, and employees from all claims and suits including court costs, attorney's fees, and other expenses directly, and only to the extent, caused material breach of this Contract by the Contractor. The IHCDA will be defended, indemnified and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth in this Contract. The duty to indemnify the IHCDA under this Contract shall not be limited by the insurance required in this Contract. The IHCDA shall not provide such indemnification to the Contractor.

22. Independent Contractor.

Both parties hereto, in the performance of this Contract, shall act in an individual capacity and not as agents, employees, partners, joint venturers or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever. Neither party will assume liability for any injury (including death) to any persons, or damage to any property, arising out of the acts or omissions of the agents, employees or subcontractors of the other party. The Contractor shall be responsible for providing all necessary unemployment and workers' compensation insurance for the Contractor's employees.

23. Information Technology Enterprise Architecture Requirement.

Intentionally omitted.

24. Insurance.

A. The Contractor shall secure and keep in force during the term of this Contract, the following insurance coverage, covering the Contractor for any and all claims of any nature which may in any manner arise out of or result from Contractor's performance under this Contract:

1. Commercial general liability, including contractual coverage, and products or completed operations coverage (if applicable), with minimum liability limits of \$700,000 per person and \$2,000,000 per occurrence unless additional coverage is required by the IHCDA. The IHCDA is to be named as an additional insured on a primary, non-contributory basis for any liability arising directly or indirectly under or in connection with this Contract.

2. The Contractor shall provide proof of such insurance coverage by tendering to the undersigned IHCDA representative a certificate of insurance prior to the commencement of this Contract and proof of Workers compensation coverage meeting all statutory requirements of IC 22-3-2. In addition, proof of an "all states endorsement" covering claims occurring outside the State is required if any of the services provided under this Contract involve work outside of Indiana.

B. The Contractor's insurance coverage must meet the following additional requirements:

1. The insurer must have a certificate of authority issued by the Indiana Department of Insurance.
2. Any deductible or self-insured retention amount or other similar obligation under the insurance policies shall be the sole obligation of the Contractor.
3. IHCDCA will be defended, indemnified and held harmless to the full extent of any coverage actually secured by the Contractor in excess of the minimum requirements set forth above. The duty to indemnify the IHCDCA under this Contract shall not be limited by the insurance required in this Contract.
4. The insurance required in this Contract, through a policy or endorsement(s), shall include a provision that the policy and endorsements may not be canceled or modified without thirty (30) days' prior written notice to the undersigned State agency.

Failure to provide insurance as required in this Contract may be deemed a material breach of contract entitling IHCDCA to immediately terminate this Contract. The Contractor shall furnish a certificate of insurance and all endorsements to IHCDCA before the commencement of this Contract.

25. Key Person(s).

Intentionally omitted.

26. Licensing Standards.

The Contractor and its employees shall comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing services to be provided by the Contractor pursuant to this Contract. The IHCDCA will not pay the Contractor for any services performed when the Contractor and its employees are not in compliance with such applicable standards, laws, rules or regulations. If any license, certification or accreditation expires or is revoked, or any disciplinary action is taken against an applicable license, certification or accreditation, the Contractor shall notify the IHCDCA immediately and the IHCDCA, at its option, may immediately terminate this Contract. The Contractor shall obtain reasonable evidence that each of its subcontractors comply with all applicable licensing standards, certification standards, accrediting standards and any other laws, rules or regulations governing services to be provided by such subcontractor.

27. Merger & Modification.

This Contract constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented or amended, except by written agreement signed by all necessary parties.

28. Minority and Women's Business Enterprises.

The Contractor agrees to comply fully with the provisions of 25 IAC 5 and any participation plan that may have been submitted to the State. The following MBE's and WBE's listed on the Minority and Women's Business Enterprises Division directory of certified firms will be participating in this Contract.

<u>MBE/WBE</u>	<u>PHONE</u>	<u>COMPANY NAME</u>	<u>SCOPE OF PRODUCTS and/or SERVICES</u>
<u>UTILIZATION DATE</u>	<u>AMOUNT</u>		

The Contractor must obtain the approval of the Division before changing any MBE/WBE participation plan submitted in connection with this Contract.

29. Nondiscrimination.

Pursuant to the Indiana Civil Rights Law, specifically including I.C. 22-9-1-10, and in keeping with the purposes of the federal Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Americans with Disabilities Act, the Contractor covenants that it shall not discriminate against any employee or applicant for employment relating to this Contract with respect to the hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of the employee or applicant's: race, color, national origin, religion, sex, age, disability, ancestry, status as a veteran, or any other characteristic protected by federal, state, or local law ("Protected Characteristics"). Furthermore, Contractor certifies compliance with applicable federal laws, regulations, and executive orders prohibiting discrimination based on the Protected Characteristics in the provision of services.

30. Notice to Parties.

Whenever any notice, statement or other communication is required under this Contract, it shall be sent to the following addresses, unless otherwise specifically advised.

A. Notices to the IHCDCA shall be sent to:

**Section 8 Housing Choice Voucher Program
Indiana Housing and Community Development Authority
30 South Meridian Street, Suite 1000
Indianapolis, Indiana 46204**

B. Notices to the Contractor shall be sent to:

31. Order of Precedence; Incorporation by Reference.

Any inconsistency or ambiguity in this Contract shall be resolved by giving precedence in the following order: (1) this Contract, (2) attachments prepared by IHCDCA, (3) RFP dated June 2, 2008, (4) Contractor's response to RFP dated June 2, 2008, and (5) attachments prepared by the Contractor. All attachments, and all documents referred to in this paragraph are hereby incorporated fully by reference.

32. Ownership of Documents and Materials.

The Contractor shall provide the IHCDCA full and unrestricted access to its records relating to the Development Fund loans during the Contractors regular business hours during the term of this Contract. The IHCDCA shall remain the mortgagee of record on all Development Fund loan documents. Use of these materials, other than related to contract performance by the Contractor, without the prior written consent of the IHCDCA, is prohibited. During the performance of this Contract, the Contractor shall be responsible for any loss of or damage to these materials developed for or supplied by the IHCDCA and used to develop or assist in the services provided while the materials are in the possession of the Contractor. Any loss or damage thereto shall be restored at the Contractor's expense.

33. Payments.

A. All payments shall be made in arrears in conformance with State fiscal policies and procedures and, as required by I.C. 4-13-2-14.8, by electronic funds transfer to the financial institution designated by the Contractor in writing unless a specific waiver has been obtained from the Indiana Auditor of State. No

payments will be made in advance of receipt of the goods or services that are the subject of this Contract except as permitted by I.C. 4-13-2-20.

- B. If Contractor is being paid in advance for the maintenance of equipment and/or software, pursuant to I.C. 4-13-2-20(b)(14), Contractor agrees that if it fails to perform the maintenance required under this Contract, upon receipt of written notice from the IHCD, it shall promptly refund the consideration paid, pro-rated through the date of non-performance.

34. Penalties/Interest/Attorney's Fees.

The IHCD will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest or attorney's fees, except as permitted by Indiana law, in part, I.C. 5-17-5, I.C. 34-54-8, and I.C. 34-13-1.

35. Progress Reports.

The Contractor shall provide progress reports in accordance with Exhibit B.

36. Renewal Option.

This Contract may be renewed under the same terms and conditions, subject to the approval of the IHCD. The term of the renewed Contract may not be longer than the term of the original Contract.

37. Security and Privacy of Health Information.

Intentionally omitted.

38. Severability.

The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.

39. Substantial Performance.

This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any written amendments or supplements.

40. Taxes.

The IHCD is exempt from most state and local taxes and many federal taxes. The IHCD will not be responsible for any taxes levied on the Contractor as a result of this Contract.

41. Termination for Convenience.

This Contract may be terminated, in whole or in part, by the IHCD whenever, for any reason, the IHCD determines that such termination is in its best interest. Termination of services shall be effected by delivery to the Contractor of a Termination Notice at least sixty (60) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective. The Contractor shall be compensated for services properly rendered prior to the effective date of termination. The IHCD will not be liable for services performed after the effective date of termination. This Contract may be terminated, in whole or in part, by the Contractor whenever, for any reason, the Contractor determines that such termination is in its best interest. Termination of services shall be effected by delivery to the IHCD of a Termination Notice at least one hundred twenty (120) days prior to the termination effective date, specifying the extent to which performance of services under such termination becomes effective; provided, however, the IHCD may extend such time period by any additional period of time

necessary for the IHCD A to reasonably complete its procurement process provided that the IHCD A promptly commences and reasonably expedites the procurement process after receipt of the termination notice. The Contractor shall be compensated for services properly rendered prior to the effective date of termination. The IHCD A will not be liable for services performed after the effective date of termination.

42. Termination for Default.

A. With the provision of thirty (30) days notice to the Contractor, the IHCD A may terminate this Contract in whole or in part if the Contractor fails to:

1. Correct or cure any breach of this Contract;
2. Deliver the supplies or perform the services within the time specified in this Contract or any extension; or
3. Intentionally omitted;
4. Perform any of the other provisions of this Contract.

B. With the provision of thirty (30) days notice to the IHCD A, the Contractor may terminate this Contract in whole or in part if the IHCD A fails to correct or cure any breach of this Contract.

C. N/A

D. The rights and remedies of the IHCD A and the Contractor in this clause are in addition to any other rights and remedies provided by law or equity or under this Contract.

43. Travel.

Intentionally omitted.

44. Waiver of Rights.

No right conferred on either party under this Contract shall be deemed waived, and no breach of this Contract excused, unless such waiver is in writing and signed by the party claimed to have waived such right. Neither the IHCD A's review, approval or acceptance of, nor payment for, the services required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract, and the Contractor shall be and remain liable to the IHCD A in accordance with applicable law for all damages to the IHCD A caused by the Contractor's default under this Contract.

45. Work Standards.

The Contractor shall execute its responsibilities by following and applying at all times the highest professional and technical guidelines and standards. If the IHCD A becomes dissatisfied with the work product of or the working relationship with those individuals assigned to work on this Contract, the IHCD A may request in writing the replacement of any or all such individuals, and the Contractor shall grant such request.

46. State Boilerplate Affirmation Clause.

IHCD A swears or affirms that it has not altered, modified or changed the State's Boilerplate contract clauses (as defined in the March 2008 OAG/ IDOA *Professional Services Contract Manual*) in any way except for the following clauses:

4. **Access to Records**, added "debt collection services performed under this Contract."
11. **Confidentiality of Information**, added "on behalf of the IHCD A in a computer system or".

NON-COLLUSION AND ACCEPTANCE

The undersigned attests, subject to the penalties for perjury, that he/she is the Contractor, or that he/she is the properly authorized representative, agent, member or officer of the Contractor, that he/she has not, nor has any other member, employee, representative, agent or officer of the Contractor, directly or indirectly, to the best of the undersigned's knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that he/she has not received or paid, any sum of money or other consideration for the execution of this Contract other than that which appears upon the face of this Contract.

In Witness Whereof, Contractor and the IHEDA have, through their duly authorized representatives, entered into this Contract. The parties, having read and understood the foregoing terms of this Contract, do by their respective signatures dated below hereby agree to the terms thereof.

(Contractor):

By: _____

Printed Name: _____

Title: _____

Date: _____

**Indiana Housing and Community
Development Authority:**

By: _____

Printed Name: Sherry Seiwert

Title: Executive Director

Date: _____

SECTION 8 HOUSING CHOICE VOUCHER ADMINISTRATIVE PLAN

1266 Overpayment and Repayment of Benefits

If the LSA or IHCDa discover from an interim reexamination or otherwise that a participant or a landlord owes money to IHCDa, IHCDa will issue a demand letter to the participant or landlord stating the amount owed. Unless IHCDa receives a response from the participant or landlord within ten business days, IHCDa may terminate the voucher and/or HAP contract and refer the matter for collection.

When a participant responds to the demand letter or if IHCDa verifies an instance of unreported or underreported household income, IHCDa may take any action it considers appropriate under the circumstances. This may include, but is not limited to, allowing the participant to enter a repayment agreement, demanding payment in full, adjusting the amount of future HAP payments, or terminating the voucher.

In making its decision about the appropriate action to take, IHCDa may, but is not required to, consider factors such as the amount owed, the length of time the person has been a participant, the explanation for the misreported income, legitimate misunderstanding of reporting obligations, or other circumstances that may mitigate the participant's culpability.

IHCDa reserves the right to demand payment in full from any landlord who has received HAP payments on behalf of a participant who no longer occupies one of the landlord's housing units. Only if the landlord can demonstrate that payment in full would cause undue hardship, will IHCDa consider allowing a landlord to enter a repayment agreement.

Under any circumstances in which IHCDa reasonably suspects that a participant intentionally misreported or underreported household income, or that a landlord knowingly accepted improper HAP payments, the matter may be referred to law enforcement for further investigation and prosecution. Likewise, if the amount of overpayment exceeds \$5,000, IHCDa may refer the matter to law enforcement for investigation and prosecution, in addition to taking affirmative steps to collect the debt through professional collection services.

1267 Repayment Agreements

IHCDa may, but is not required to, allow a participant who owes IHCDa money as a result of current or previous participation in the HCV program, to enter a repayment agreement. For example, if a family did not timely report an increase in household income, IHCDa may agree to calculate the retroactive overpayment amount and allow the family to make monthly payments of that amount. The agreement may provide that no interest will be charged on the unpaid balance.

If a participant does not comply with the terms of a repayment agreement, IHCDa may terminate the participant's HCV program assistance. IHCDa will consider any extenuating circumstances offered and proven by the participant on a case-by-case basis. However, if IHCDa discovers that the family misrepresented the reasons for not complying with the repayment agreement, it may require immediate repayment of the entire amount in full or may terminate the family's HCV program assistance, or both. If warranted, IHCDa may refer the case to law enforcement for prosecution. Whenever assistance is terminated before repayment is complete, the money will still be owed and IHCDa may take any appropriate action to collect the amount due.

1268 Repayment Agreement Standards

Families who are allowed to enter into a repayment agreement with IHCD will be required to adhere to the following payment standards:

1. A minimum of \$50 must be paid upon execution of the agreement;
2. Thereafter, the family's monthly payment must be at least \$25;
3. The balance must be paid in equal monthly installments over a period not to exceed 60 months;
4. At the family's request, the repayment period may be shorter than 60 months.

If there is a family break up and the household still owes money to IHCD, both spouses will be held jointly liable for the amount of the debt. Neither responsible party may reapply or receive assistance in another federally assisted household until the full amount of the debt is repaid. Nor may either party be added to an assisted household as a live-in aide.